

### **REMARKS**

The Office Action dated January 15, 2008 has been received and carefully considered. The above amendments and the following remarks are submitted as a full and complete response thereto.

Claims 1-11 have been cancelled. New claims 12-23 have been added. Claims 12-23 find clear support in the original specification and drawings as filed and do not introduce new matter.

### **REFERENCES FOR INFORMATION DISCLOSURE STATEMENT**

The Office Action noted that the two foreign patent documents were not enclosed with the IDS filed January 31, 2006 with the application. As set forth in that IDS, the Applicant was led to believe that the International Bureau had forwarded the same. Additionally, it was requested that the Examiner call counsel if they were not available. No call was received.

Applicants are attaching copies of the documents cited in the IDS filed January 31, 2006 to this response. There should be no requirement for a fresh IDS as the Examiner has already been apprised of the references and their relevance (i.e. the fact that they were cited in the International Search Report).

### **CLAIM OBJECTIONS**

Claims 1 – 11 were objected to for various informalities. Claims 1 – 11 have been cancelled and replaced by Claims 12 – 23 which have been drafted with

the objections in mind. It is respectfully submitted that these claims are free of the noted informalities.

New claims 12 and 23 claim "*A device for dosing and forming disks for pods containing a product for infusion*". These claims correctly refer to a device for making the disks, therefore no means for forming the pods need to be included.

The title and the corresponding portions of the specification have been amended as specified in "amendments to the specification".

Moreover, claims 12 and 23 now define the features in term of structural elements, particularly the features that make claims 12 and 23 differ from the most relevant state of the art.

New claim 18 (which substantially corresponds to previous claim 7) now depends upon a single claim, namely claim 17.

In view of the above amendments, withdrawal of all the objections is respectfully requested.

#### **CLAIM REJECTIONS - 35 U.S.C. §112**

Claims 4 -10 were rejected under 35 U.S.C. § 112, second paragraph as being indefinite. In all the claims, the "forming means" have been replaced by corresponding structural features (revolving drum and pistons).

In all the claims, the term "drum" is specifically claimed as "revolving drum".

In claim 17 (corresponding to previous claim 6), the expression "the cylinder" has been replaced by "a cylindrical portion".

Claim 18 (which substantially corresponds to previous claim 7) has been rewritten for better putting in evidence the new structure which is claimed.

With regard to new claim 19 (which substantially corresponds to previous claim 8), the Applicant points out that it is sufficiently clear from the claim that the upper section of the guide cam profile is adjustable. As disclosed in the Application, the adjustable upper section of the guide cam profile is adjustable for increasing or decreasing the distance between the a head of the piston and the levelling off point corresponding to the volume of product inside the head.

In view of the above modification in the claims, withdrawal of all the rejections under 35 U.S.C. §112 is respectfully requested.

#### **CLAIM REJECTIONS - 35 U.S.C. §102**

The Examiner rejected claims 1-7 and 10 for being anticipated by Romagnoli (US 4,437,294).

The Applicant considers that probably the rejections under 35 U.S.C. §102 were raised due to the objections to the functional limitations in the claims (as specified by the Examiner in point 2 of the first Office communication, where said functional limitations were not afforded patentable weight).

New claims 12 and 23 define the invention in a structural manner (for instance, the forming and releasing means have been replaced with the revolving drum and the pistons).

Romagnoli ('294) fails to disclose that "*each piston is rotatably mounted on the revolving drum for continuously rotating about said respective axis*", as in

present claim 12. By contrast, Romagnoli ('294) discloses that each piston can only move along said respective axis, without being afforded a rotating movement about said respective axis, too.

Claim 12 is therefore considered to not be anticipated by Romagnoli ('294).

The Applicant respectfully points out that claim 12 includes features from previous claim 9, which was considered allowable by the Examiner if rewritten in independent form, and no prior art documents were cited by the Examiner for anticipating the inventive concept of making the pistons rotate about the axis along which they slide.

Romagnoli ('294) also fails to disclose that each piston is movable along the respective axis towards the arc-shaped wall for compressing the infusion product included into the impressions against the tamping surface of the arc-shaped wall. As a consequence, Romagnoli ('294) fails to disclose that the arc-shaped wall defines a tamping surface opposite to the impression of the pistons in a part of the circular path.

By contrast, Romagnoli ('294) discloses that the pistons, when facing the arc-shaped wall (reference number 8 in '294), do not move along the respective axis towards the arc-shaped wall. In detail, Romagnoli ('294) discloses (column 6, lines 30-37) that *"said piston member is gradually moved toward the periphery of the drum 1 as far as to be situated at the minimum distance from said periphery of the same drum 1 in correspondence of the top dead centre so to determine the quantity 16 of product 3 in the pocket 5 because of the smoothing element 8"*. In other words, Romagnoli ('294) discloses that each

piston reaches the circular section of the smoothing element (8) when the piston is already at the minimum distance from the periphery of the drum, and therefore no further stroke of the pistons towards the smoothing element is allowed (so leading to no compressing action on the product in the impressions). The further indication that the element (8) is a *smoothing* element (as specified in Romagnoli) clarifies that Romagnoli:

- fails to disclose that the pistons are movable along the respective axis towards said arc-shaped wall for compressing the infusion product included into the impressions; and
- fails to disclose that the arc-shaped wall defines a tamping surface opposite to the impression of the pistons in a part of the circular path.

It is also clear that the above features define in a structural manner the differences between the invention and the most relevant state of the art.

Claim 23 also is therefore considered to not be anticipated by Romagnoli ('294).

In view of the above remarks, it is respectfully requested that the objection under 35 U.C.S. §102 be withdrawn.

### **CLAIM REJECTIONS – 35 U.S.C. § 103**

Claims 8 and 11 were rejected under 35 U.S.C. § 103 as being unpatentable over Romagnoli '294 taken in view of US Patent No. 2,684,186 to Mattos and taken in view of US Patent No. 6,135,120 to Lofman et al, respectively.

As noted above, Romagnoli '294 fails to teach certain aspects of the invention claimed in independent Claim 12 from which claims 19 and 22 depend. It is submitted that neither Mattos nor Lofman et al cure the above noted deficiencies of Romagnoli '294.

Consequently, it is strongly contended that clear differences exist between the present invention as claimed in Claims 12 - 23 and the prior art relied upon. It is further contended that these differences are more than sufficient that the present invention as claimed would not have been anticipated nor rendered obvious to a person of ordinary skill in the art viewing those references.

## **CONCLUSION**

The Applicants respectfully submit that present claims 12 and 23 are allowable. Claims 13-22 depend (directly or indirectly) upon independent claim 12. The Applicants further submit that each of these dependent claims incorporates the patentable aspects thereof, and is therefore allowable for at least the same reasons as discussed above. Accordingly, the Applicants respectfully request withdrawal of the rejections under 35 U.S.C. §102, § 103, and § 112, and of the objection to the drawings, allowance of claims 12-23 and the prompt issuance of a Notice of Allowability and a Notice of Allowance.

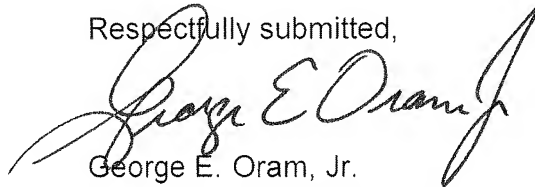
The prior art made of record but not applied by the Examiner has been carefully considered but is submitted to be less relevant than the references

previously discussed.

Applicants' counsel remains ready to assist the Examiner in any way to facilitate and expedite the prosecution of this application.

In the event that this paper is not being timely filed, the Applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension, together with any additional fees that may be due with respect to this paper, may be charged to Counsel's Deposit Account Number 01-2300, referencing Docket Number 023349.00313.

Respectfully submitted,



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